

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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KRYSTAL MOSHOLDER, et al.,

Plaintiff,

vs. Case No. 5:18cv1325

LOWE'S COMPANIES, INC., et al.,

Defendants.

~~~~~

Deposition of
KRYSTAL MOSHOLDER

November 25, 2019

2:18 p.m.

Taken at:

Roetzel & Andress, LPA

222 South Main Street, Suite 400

Akron, Ohio

Job No. CS3790601

Ashanti Edwards, RPR

<div>Page 2</div> <div>1 APPEARANCES:</div> <div>2</div> <div>3 On behalf of the Plaintiffs:</div> <div>4 Pelini, Campbell & Williams, LLC,</div> <div>5 by</div> <div>6 CRAIG M. EOFF, ESQ.</div> <div>7 Bretton Commons</div> <div>8 8040 Cleveland Avenue NW, Suite 400</div> <div>9 North Canton, Ohio 44720</div> <div>10 Ceoff@pelini-law.com</div> <div>11</div> <div>12 On behalf of The Defendant, Lowe's</div> <div>13 Companies, Inc.:</div> <div>14 Roetzel & Andress, LPA, by</div> <div>15 NICHOLAS P. RESETAR, ESQ.</div> <div>16 222 South Main Street, Suite 400</div> <div>17 Akron, Ohio 44308</div> <div>18 (330) 849-6791</div> <div>19 Nresetar@ralaw.com</div> <div>20 ~ ~ ~ ~ ~</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 4</div> <div>1 INDEX OF EXHIBITS</div> <div>2 NUMBER DESCRIPTION MARKED</div> <div>3 Exhibit 1 Video 23</div> <div>4 Exhibit 2 Medical record 27</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>
<div>Page 3</div> <div>1 TRANSCRIPT INDEX</div> <div>2</div> <div>3 APPEARANCES 2</div> <div>4</div> <div>5 INDEX OF EXHIBITS 4</div> <div>6</div> <div>7 EXAMINATION OF KRYSTAL MOSHOLDER</div> <div>8 BY MR. RESETAR 5</div> <div>9</div> <div>10 REPORTER'S CERTIFICATE 32</div> <div>11</div> <div>12 EXHIBIT CUSTODY</div> <div>13 EXHIBITS RETAINED BY THE COURT REPORTER</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 5</div> <div>1 KRYSTAL MOSHOLDER, of lawful age,</div> <div>2 called for examination, as provided by the</div> <div>3 Federal Rules of Civil Procedure, being by me</div> <div>4 first duly sworn, as hereinafter certified,</div> <div>5 deposed and said as follows:</div> <div>6 EXAMINATION OF KRYSTAL MOSHOLDER</div> <div>7 BY MR. RESETAR:</div> <div>8 Q. Good afternoon.</div> <div>9 A. Hi. I'm sorry. I wasn't sure what</div> <div>10 I was supposed to say.</div> <div>11 Q. That's okay.</div> <div>12 A. Yes.</div> <div>13 Q. A lot of this process is</div> <div>14 unnecessarily more awkward than it needs to be.</div> <div>15 A. I was made aware.</div> <div>16 Q. My name is Nick Resetar. I'm</div> <div>17 Lowe's attorney. You can address me however</div> <div>18 you'd like. I'm incapable of being offended.</div> <div>19 A. Okay.</div> <div>20 Q. Most people aren't that way, so I</div> <div>21 want to make sure that I don't offend you. How</div> <div>22 would you prefer that I address you?</div> <div>23 A. First name is fine.</div> <div>24 Q. Okay. Have you ever been deposed</div> <div>25 before?</div>

<p style="text-align: right;">Page 6</p> <p>1 A. No.</p> <p>2 Q. We do this speech every time and</p> <p>3 it's tiresome, but I'll give you the ground</p> <p>4 rules.</p> <p>5 A. Okay.</p> <p>6 Q. Ashanti is taking down everything</p> <p>7 that we're saying.</p> <p>8 A. Um-hmm.</p> <p>9 Q. You're doing it right now. One</p> <p>10 thing we have to do is say yes or no.</p> <p>11 A. Okay.</p> <p>12 Q. Not huh-uh or um-hmm.</p> <p>13 A. Got it.</p> <p>14 Q. I understand. You know, I'm</p> <p>15 sitting across from you, but it's hard for her</p> <p>16 to get that down.</p> <p>17 A. Got it.</p> <p>18 Q. The second part is, in normal</p> <p>19 conversation it's typical, and we do it without</p> <p>20 even recognizing it, talking over each other.</p> <p>21 A lot of times you know what I'm going to say</p> <p>22 and I know what you're going to say, so we</p> <p>23 don't even give the other person a chance.</p> <p>24 We're just talking. I will do my best to let</p> <p>25 you finish talking before I start talking.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Okay. Krystal, we're here --</p> <p>2 A. Sorry.</p> <p>3 Q. That's okay.</p> <p>4 A. Okay. Oh. Now it's on silent.</p> <p>5 Q. Okay. We are here today to discuss</p> <p>6 an incident that occurred at the Brimfield</p> <p>7 Lowe's on March 15th, 2018. Does that sound</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. And the Brimfield Lowe's, that's on</p> <p>11 Nicholas Way?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. I'm just going to call that</p> <p>14 the Brimfield Lowe's.</p> <p>15 A. Okay.</p> <p>16 Q. Let me get a little bit of</p> <p>17 background first. Do you shop -- prior to</p> <p>18 March 15th, 2018, did you shop at the Brimfield</p> <p>19 Lowe's often?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 A. Five to six times a week.</p> <p>23 Q. That was my next question. Why so</p> <p>24 often?</p> <p>25 A. I have my own business where I, I</p>
<p style="text-align: right;">Page 7</p> <p>1 A. Okay.</p> <p>2 Q. As you can imagine, it's probably</p> <p>3 hard to write down what two people are saying</p> <p>4 at once.</p> <p>5 A. Okay.</p> <p>6 Q. The other thing is, if you need to</p> <p>7 take a break for any reason, take a phone call,</p> <p>8 go to the bathroom, I don't care. Just tell</p> <p>9 me. If you want to talk to Craig, that's fine.</p> <p>10 I don't care.</p> <p>11 MR. RESETAR: Am I missing</p> <p>12 anything, Craig?</p> <p>13 MR. EOFF: No. I don't think so.</p> <p>14 Q. Okay. All right. Oh, I am missing</p> <p>15 something. If I ask you something that doesn't</p> <p>16 make sense, tell me. I say a lot of things</p> <p>17 that don't make sense.</p> <p>18 A. Okay.</p> <p>19 Q. I want to make sure that when you</p> <p>20 answer a question you understand what I'm</p> <p>21 saying.</p> <p>22 A. Okay.</p> <p>23 Q. If you answer a question, I'll</p> <p>24 assume you understood it. Is that fair?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 guess, build things out of wood materials, so I</p> <p>2 go there very often to get all of those</p> <p>3 supplies.</p> <p>4 Q. Okay. Were you part of their Pro</p> <p>5 program?</p> <p>6 A. No. I have a credit card through</p> <p>7 them, but not part of the Pro program.</p> <p>8 Q. Okay. I know this is a hard</p> <p>9 question, but when do you think you first</p> <p>10 started going to Lowe's regularly, the</p> <p>11 Brimfield Lowe's?</p> <p>12 A. I think I've been doing this for</p> <p>13 four years now. At least four years.</p> <p>14 Q. Okay. So is it fair for me to say</p> <p>15 that like since 2016, 2015?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. I guess -- really simple.</p> <p>18 Were you aware that Lowe's -- as of March 15th,</p> <p>19 2018, were you aware that Lowe's allowed</p> <p>20 customers to bring pets in the store?</p> <p>21 A. Yes. I can recall the sticker on</p> <p>22 the doors, the sliding doors.</p> <p>23 Q. Do you recall what that sticker</p> <p>24 says?</p> <p>25 A. I can picture a dog on it and it</p>

<p style="text-align: right;">Page 10</p> <p>1 says -- I mean, not verbatim, but we are pet 2 friendly. 3 Q. Is it fair to assume you saw that 4 sticker before March 15th, 2018? 5 A. Yes. Yes. 6 Q. Okay. Is it fair to assume you saw 7 dogs in the Brimfield Lowe's prior to March 8 15th, 2018? 9 A. Yes. 10 Q. Would you say it's common or 11 uncommon to see dogs in the store prior to 12 March 15th, 2018? 13 A. Common. 14 Q. Okay. Did you ever see the same 15 dogs on multiple occasions in that store prior? 16 A. No. 17 Q. Okay. Did you own any dogs on 18 March 15th, 2018? 19 A. That's a question mark. I could 20 find out right now. 21 Q. You could or couldn't? 22 A. I could find out right now on my 23 Instagram. Is that what you're asking me, if 24 we had a dog when that happened? 25 Q. Yes.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Okay. And I saw a post on 2 Instagram from March 2018 of him. 3 A. Yeah. 4 Q. Looks like by a swing set. 5 A. Okay. 6 Q. If that was taken around that time, 7 would you dispute that you had Jack in March 8 2018? 9 A. No. 10 Q. And that's all I wanted. 11 A. Okay. 12 Q. Prior to March 15th, 2018, had you 13 ever been bitten by a dog before? 14 A. No. 15 Q. You're luckier than I am. I'll 16 probably get bitten tonight when I get home. I 17 get bitten probably once a week. I have a 18 yellow lab. 19 A. Oh. Well, I mean playfully. Not 20 like this. 21 Q. And that's where I was going. As a 22 dog owner, you've had teeth on you? 23 A. Yeah. Puppy bites, yeah. 24 Q. And you would consider the dog 25 playing, not trying to physically harm you?</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Yes. And I was asked by the other 2 Craig probably a year after this all happened 3 and my husband and I -- my husband was with me 4 and he -- we both said, we're not sure, we 5 don't think so. That was our -- 6 Q. And I'm not trying to -- certainly, 7 two things. 8 A. Yes. 9 Q. I'll editorialize a little bit. 10 I'm not trying to drum up any old feelings, 11 number one. 12 A. Right. 13 Q. Number two, I'm not trying to pull 14 the rug out from under you. 15 A. Yeah. 16 Q. I just wanted to know -- 17 A. And I'm just telling -- being, 18 like, honest with you. We -- I have not looked 19 into it. 20 Q. And I -- 21 A. I didn't know that mattered. So I 22 guess I wasn't too concerned about it. 23 Q. It may not matter. Was your dog's 24 name Jack? 25 A. Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Right. 2 Q. Okay. Tell me what the term 3 vicious, as it pertains to dogs, means to you. 4 Let me ask this a better way. In your opinion, 5 what is a vicious dog? 6 MR. EOFF: Objection. Just to the 7 extent that it might seek a legal conclusion 8 and, obviously, this witness would not be 9 qualified to answer such a question to the 10 extent that you're asking for her personal 11 impression. 12 MR. RESETAR: I would like her 13 opinion of what -- not a legal opinion. 14 Q. To you, what is a vicious dog? 15 MR. EOFF: Sure. 16 A. A dog, if you were to approach it 17 friendly, would bite you or come at you in a 18 way that, I guess, a friendly dog wouldn't. 19 Q. How do you know that a dog may or 20 may not be vicious, you, prior to approaching 21 it? 22 A. You have no idea. 23 Q. Okay. 24 A. If I don't know the dog, you -- you 25 don't know.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. Is it fair to say that dogs you're 2 not familiar with can be unpredictable? 3 A. Yes. 4 Q. Is it fair to say that some -- that 5 there could be some characteristics to identify 6 a vicious dog? For example, aggressive 7 barking? 8 A. Yes. 9 Q. Perhaps showing its teeth? 10 A. Yes. 11 Q. Perhaps trying to get away from its 12 handler to lunge at somebody? 13 A. Yes. 14 Q. Okay. Had you ever encountered a 15 vicious dog prior to March 15th, 2018? 16 A. I cannot say that I have. 17 Q. Okay. At the Brimfield Lowe's 18 prior to March 15th, 2018 -- so I can stop 19 saying March 15th, 2018, can I just say the 20 date in question, or something along those 21 lines? 22 A. Yes. 23 Q. Prior to the date in question had 24 you ever petted any of the dogs at the 25 Brimfield Lowe's?</p>	<p style="text-align: right;">Page 16</p> <p>1 standing -- I mean, if I could draw a picture 2 it would make more sense. But the dog and the 3 owner was standing right by the spray paint, 4 probably enough to fit one other person, maybe 5 two people, to get to the spray paint. So I'm 6 walking this way. They're here, right by where 7 I need to go. So the one lady, the employee 8 that you guys just talked to, was bent down, 9 hi, dog, love you, you're so cute, blah, blah, 10 blah, super excited to see this dog. So I just 11 go around the people this way. As I'm going -- 12 I don't even know how to say it because I don't 13 know for sure. But I want to say the dog like 14 turned its head to like say hi to me and then I 15 just literally like tried to like brush the top 16 of its head or nose, or whatever it was, and 17 that's when it lunged at me and got my leg. 18 Q. Okay. 19 A. Should I keep going? 20 Q. Please. 21 A. Okay. So that happened. Took me 22 completely off guard. Scared the crap out of 23 me. My adrenaline is going, my blood pressure. 24 I'm like, what the heck just happened. I want 25 to say the owner -- I know for sure the owner</p>
<p style="text-align: right;">Page 15</p> <p>1 A. No, I have not. 2 Q. Okay. I'm going to make this real 3 easy. Tell me what happened on the date in 4 question. 5 A. How much of it? 6 Q. How about this. From the time you 7 pulled up to the parking lot to the time you 8 left the parking lot. 9 A. Okay. Pulled up. I had a handful 10 of materials I needed to buy, some being lumber 11 I'm pretty sure. Then, I needed to get some 12 spray paint and I needed to get some cast iron 13 bars and materials to make something. So I 14 always start at the end where the lumber is. 15 That's where I park. So I parked on the lumber 16 side, go in lumber side, get what I need in the 17 lumber. And then I needed to go down to get 18 the spray paint, which is on the opposite side 19 of the building. I walked -- I leave my cart. 20 It already has the lumber in it. Then, I 21 walked down to get -- I think I got a couple 22 handles, too. Then, I went down to get the 23 spray paint and there was -- which I've already 24 seen this dog once in the store on the other 25 side where I was. I went to go -- the dog was</p>	<p style="text-align: right;">Page 17</p> <p>1 pulled the leash back. So I'm assuming he saw. 2 I can't say for sure if he did because I don't 3 know if he said anything. I may have said that 4 he did. I can't tell you -- it's almost been 5 two years. I can't remember now if he actually 6 said anything or not. Along with the employee. 7 I don't think she did. And I don't even know 8 if she even really noticed or acknowledged that 9 it happened. So I just leave. I don't even 10 grab the spray paint. I then realize I still 11 need to get those cast iron bars, which are on 12 that side. So I go over there and grab them. 13 Come back -- you know what, I take that back. 14 Sorry. I forgot that when I went to go and 15 actually try to grab the spray paint the dog 16 lunged at me again, but did not get me. So 17 after he bit me I kind of walk to go get the 18 other things and I just try to like go back and 19 reach and get the spray paint and the dog 20 lunged at me and I'm like, I'm just getting out 21 of here. So that's when I went and got the 22 cast iron bars and then just went back to my 23 cart that was already loaded and decided at 24 that point that I just wanted to get out of 25 there. I already had my materials loaded up.</p>

<p style="text-align: right;">Page 18</p> <p>1 I'm like, I'll just, you know, pay for what I 2 need to pay and get out of there. And that's 3 when I checked out. 4 Q. Okay. Did you buy the spray paint 5 or not? 6 A. No. I never got the spray paint. 7 Q. Okay. 8 A. And that's on the video. 9 Q. Let me back through that. You said 10 you saw the dog in the store before. Did you 11 mean this day or on a different day? 12 A. This day. That -- yeah. When I 13 was doing my prior shopping. 14 Q. Okay. Can you describe what the 15 owner looked like? 16 A. Like I said, it's been two years. 17 I want to say upper 20s, early 30s. Male, 18 medium height, 5'10-ish height, darker hair. 19 That's really -- wearing a sweatshirt, a gray 20 sweatshirt, I believe. 21 Q. Can you physically describe the dog 22 for me? 23 A. Medium-sized dog. Not a large dog. 24 Darker gray with some white spotting. To me it 25 looked like some kind of Pit Bull dog mix.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. I have a male dog, so my default is 2 to call it a him. 3 A. Yeah. 4 Q. When you saw the employee petting 5 the dog did the dog appear friendly? 6 A. Yes. 7 Q. Okay. And when you came up to them 8 how close were you to the employee? 9 A. I walked behind her. She's knelt 10 down, I walked behind her. Close, I guess. 11 Q. Okay. And you said you put your 12 hand out towards its head? 13 A. Just to like touch the nose or 14 whatever. Head, whatever. 15 Q. Did you end up touching the head? 16 A. I don't think so. I don't know for 17 sure. 18 Q. Okay. And then how far -- or how 19 much time from the time you stuck your hand out 20 did the dog -- 21 A. It was like almost -- 22 Q. Instantaneous? 23 A. Um-hmm. 24 Q. And did you say anything to the 25 owner?</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. In your opinion, how old do you 2 think that dog was? 3 A. A year, maybe. 4 Q. Would you call it a puppy? 5 A. Yeah. 6 Q. Okay. When you walked into the 7 aisle you saw the employee petting the dog; is 8 that correct? 9 A. Yes. 10 Q. Is that the woman you just saw now 11 leave the building? 12 A. Oh, I didn't even pay attention. 13 Q. Oh. I thought you did say that. 14 Okay. 15 A. I just said -- I saw a lady leaving 16 with someone, so -- I didn't see what she 17 looked like, but -- 18 Q. Okay. Was she like really close to 19 the dog petting him? 20 A. Yeah. She was knelt down, from 21 what I can remember, and like petting the head 22 and stuff. 23 Q. Okay. And I said him. I don't 24 know if the dog is a male or female. 25 A. I don't know either.</p>	<p style="text-align: right;">Page 21</p> <p>1 A. No, I did not. 2 Q. Did the owner say anything to you? 3 A. I can't remember. 4 Q. Did the employee say anything to 5 you? 6 A. I cannot remember. 7 Q. Did you tell the employee that the 8 dog had bit you? 9 A. No. No one at the store knew. 10 Q. Okay. And that's my next question. 11 Is there -- and I'm not trying to come down on 12 you. Is there any reason you didn't tell 13 anybody at the store? 14 A. So I was wearing a pair of black 15 jeans, actual jeans, and I did not know at the 16 time that the dog bit through the jeans and 17 actually got my skin. I did not see any blood, 18 didn't see any markings, so -- had I known 19 that, if I were wearing a pair of shorts, I 20 would have for sure said something. I just 21 didn't know it went through my jeans. So I 22 didn't feel like I had any reason to say, so 23 that's why. 24 Q. Okay. And just so I can be very 25 clear, you did see the dog before it bit you?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. Yes.</p> <p>2 Q. And you did attempt to interact</p> <p>3 with the dog before it bit you?</p> <p>4 A. Yes.</p> <p>5 Q. When you approached that dog did it</p> <p>6 give you any behavior that you thought -- led</p> <p>7 you to believe it would bite you?</p> <p>8 A. No.</p> <p>9 Q. The things we talked about earlier,</p> <p>10 about a vicious dog, the gnashing the teeth,</p> <p>11 the barking, trying to get away from its owner,</p> <p>12 was this dog exhibiting any behavior that you</p> <p>13 would describe as vicious?</p> <p>14 A. No.</p> <p>15 Q. With that being said, you told me</p> <p>16 earlier that dogs are unpredictable, would you</p> <p>17 chalk this up to being unpredictable, that this</p> <p>18 dog bit you?</p> <p>19 A. Yes.</p> <p>20 Q. But you were aware when you walked</p> <p>21 toward it that it was a possibility you could</p> <p>22 be bitten, albeit remote?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. The dog wasn't hidden from</p> <p>25 your view? You knew it was there?</p>	<p style="text-align: right;">Page 24</p> <p>1 have one question for you after you watch it.</p> <p>2 Is this you?</p> <p>3 A. Yes.</p> <p>4 Q. That is you?</p> <p>5 A. Yes.</p> <p>6 Q. And those are the black jeans you</p> <p>7 referenced?</p> <p>8 A. Yes.</p> <p>9 Q. And you're wearing -- it looks like</p> <p>10 a gray --</p> <p>11 A. North Face jacket.</p> <p>12 Q. North Face jacket. Okay. And a</p> <p>13 white tassel cap?</p> <p>14 A. Yeah.</p> <p>15 Q. Or a light-colored cap?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. That was my only question.</p> <p>18 Then, this next question is going to be -- I'll</p> <p>19 preview it for you. Is this the dog? Let</p> <p>20 me --</p> <p>21 A. Yes.</p> <p>22 Q. That's the dog?</p> <p>23 A. Yes.</p> <p>24 Q. And we lawyers, we're the king of</p> <p>25 asking dumb questions. Is that the owner?</p>
<p style="text-align: right;">Page 23</p> <p>1 A. Yep. He was there, yes.</p> <p>2 Q. Okay. I want to show you the</p> <p>3 video. I'm going to mark this as Exhibit 1.</p> <p>4 - - - - -</p> <p>5 (Thereupon, Deposition Exhibit 1,</p> <p>6 video, was marked for purposes of</p> <p>7 identification.)</p> <p>8 - - - - -</p> <p>9 MR. RESETAR: Craig, we talked</p> <p>10 about this. I have a flash drive. It's got</p> <p>11 every single video clip on it.</p> <p>12 MR. EOFF: Right.</p> <p>13 MR. RESETAR: I can put it in and</p> <p>14 show you. Or you can -- you're happy to look</p> <p>15 at it if you'd like.</p> <p>16 MR. EOFF: Yeah. I'll do that.</p> <p>17 That's fine.</p> <p>18 Q. I'm going to direct you to the</p> <p>19 screen. These will be very simple questions,</p> <p>20 Krystal. Bear with me.</p> <p>21 A. Um-hmm.</p> <p>22 Q. Okay. I'll represent to you that</p> <p>23 this is a video clip from the Brimfield Lowe's</p> <p>24 on the date in question. I will also represent</p> <p>25 to you this is when you came into the store. I</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And then I did have one</p> <p>3 more. No. I'm not going to ask that question.</p> <p>4 Okay. So we've just established that is you on</p> <p>5 the video and that is the dog?</p> <p>6 A. Um-hmm.</p> <p>7 Q. What happened after you left the</p> <p>8 store?</p> <p>9 A. I went home and I called my husband</p> <p>10 to let him know and then he, you know, told me</p> <p>11 that I should call -- I was going to anyway</p> <p>12 because after I -- so I should say, I went</p> <p>13 home, checked where I got bit and that's when I</p> <p>14 saw that I was bleeding and there were teeth</p> <p>15 marks. And that's when I took the picture.</p> <p>16 Then, I called my husband and then I called</p> <p>17 Lowe's.</p> <p>18 Q. So you called Lowe's or your</p> <p>19 husband called Lowe's?</p> <p>20 A. No. I called Lowe's. I'm pretty</p> <p>21 sure my husband did after I tried to talk to</p> <p>22 them and they weren't very helpful.</p> <p>23 Q. Do you remember who you talked to?</p> <p>24 A. I know it was a lady and I could --</p> <p>25 I don't know her name, but I know from voices,</p>

<p style="text-align: right;">Page 26</p> <p>1 and I go there all the time, that I could pick 2 her out and I could tell you if we were there 3 in person, but I can't say that for sure. So 4 no, I don't know any names. I do not remember 5 any names. 6 Q. Is it fair to say that the reason 7 you reported this is because it had broken your 8 skin? 9 A. Well, honestly, yes. There was 10 another reason that I just -- I wanted to make 11 sure that that dog wasn't going to return to 12 that store and do this again to a kid or 13 someone else, so -- 14 Q. Did you see that dog interact with 15 anybody else in the store after this incident? 16 A. No. 17 MR. RESETAR: Craig, did you look 18 at that? 19 MR. EOFF: What's that? Oh, yeah. 20 This? 21 MR. RESETAR: Yeah. 22 MR. EOFF: Yeah. That appears to 23 be everything you gave me. 24 MR. RESETAR: Okay. I haven't even 25 looked at it myself.</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. EOFF: Okay. Just don't say 2 anything about anything that you and I have 3 discussed. 4 THE WITNESS: Okay. 5 Q. Do you see the part with it says 6 HPI comments toward the bottom of the page? 7 A. Yes. 8 Q. Can you just read that and tell me 9 if you disagree with anything in that -- 10 A. Out loud or -- 11 Q. To yourself. 12 A. Yeah. I mean, there's the one 13 thing they left out, but everything in here is 14 correct. 15 Q. What did they leave out? 16 A. When I went to go try and get the 17 spray paint again the dog lunged at me. 18 Q. Okay. And you told them that? 19 A. I'm not sure. 20 Q. Okay. 21 A. I didn't know that they needed to 22 know that. 23 Q. Fair enough. 24 A. Yeah. 25 Q. That was the reason I asked.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Okay. Krystal, I'll hand you what 2 we'll mark as Exhibit 2. 3 - - - - - 4 (Thereupon, Deposition Exhibit 2, 5 medical record, was marked for 6 purposes of identification.) 7 - - - - - 8 MR. RESETAR: Craig, I didn't make 9 copies of this. I cannot put the whole record 10 in. It's one of -- 11 MR. EOFF: It's fine. 12 MR. RESETAR: Is it okay if I just 13 use this one sheet? I just want to go over the 14 narrative with her. 15 MR. EOFF: That's fine. 16 Q. Krystal, I'm handing you what we'll 17 mark as Lowe's Exhibit 2. I'll represent to 18 you, and you've probably never seen this, that 19 this is one of your medical records from the 20 Cleveland Clinic. 21 A. I may have seen it with him at the 22 last meeting. 23 MR. EOFF: You don't want to -- 24 MR. RESETAR: I'm not going to ask 25 about it.</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Yeah. 2 MR. RESETAR: Craig, give me a 3 second. We might be done. 4 MR. EOFF: Okay. 5 MR. RESETAR: I just want to 6 collect my thoughts and see if there's anything 7 else we're missing. 8 MR. EOFF: Okay. 9 MR. RESETAR: Off the record. 10 (Off the record.) 11 MR. RESETAR: Craig, as we 12 discussed, are you comfortable with just 13 leaving this open solely with regards to 14 damages? 15 MR. EOFF: Yes, sir. Yeah. 16 Absolutely. 17 MR. RESETAR: Okay. Then, as far 18 as today goes, I have no further questions. 19 MR. EOFF: Okay. Krystal, although 20 we've left the deposition potentially open for 21 later questioning about damages pursuant to 22 stipulation of counsel, you do have the right 23 to review the transcript. Not to change your 24 testimony, but to at least review it for 25 accuracy. Although, I will tell you, given the</p>

Page 30

1 short nature of the deposition and the
 2 professionalism of our court reporter, I doubt
 3 that this is necessary. You have the right to
 4 do it. You can either say that you want to or
 5 you can waive your right to review and sign the
 6 transcript. I'm perfectly comfortable with you
 7 waiving.
 8 THE WITNESS: I am, too.
 9 MR. EOFF: Okay.
 10 THE NOTARY: Are there any orders
 11 for the transcripts today?
 12 MR. EOFF: I'll take both copies of
 13 Stacie and Krystal.
 14 (The deposition concluded at 2:25 p.m.)
 15
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Page 31

1 Whereupon, counsel was requested to give
 2 instruction regarding the witness's review of
 3 the transcript pursuant to the Civil Rules.
 4
 5 SIGNATURE:
 6 It was agreed by and between counsel and the
 7 parties that the reading and signing of the
 8 transcript of said deposition, be and the same
 9 is hereby waived.
 10
 11 TRANSCRIPT DELIVERY:
 12 Counsel was requested to give instruction
 13 regarding delivery date of transcript.
 14 Mr. Eoff: Original.
 15
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 17
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 20
 21
 22
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 24
 25

Page 32

1 REPORTER'S CERTIFICATE
 2 The State of Ohio,)
 3 SS:
 4 County of Cuyahoga.)
 5
 6 I, Ashanti Edwards, a Notary Public
 7 within and for the State of Ohio, duly
 8 commissioned and qualified, do hereby certify
 9 that the within named witness, KRYSTAL
 10 MOSHOLDER, was by me first duly sworn to
 11 testify the truth, the whole truth and nothing
 12 but the truth in the cause aforesaid; that the
 13 testimony then given by the above-referenced
 14 witness was by me reduced to stenotypy in the
 15 presence of said witness; afterwards
 16 transcribed, and that the foregoing is a true
 17 and correct transcription of the testimony so
 18 given by the above-referenced witness.
 19 I do further certify that this
 20 deposition was taken at the time and place in
 21 the foregoing caption specified and was
 22 completed without adjournment.
 23
 24
 25

Page 33

1 I do further certify that I am not
 2 a relative, counsel or attorney for either
 3 party, or otherwise interested in the event of
 4 this action.
 5 IN WITNESS WHEREOF, I have hereunto
 6 set my hand and affixed my seal of office at
 7 Cleveland, Ohio, on this _____ day of
 8 _____, 2019.
 9
 10
 11
 12
 13
 14 
 15 Ashanti Edwards, Notary Public
 16 within and for the State of Ohio
 17 My commission expires October 14, 2022.
 18
 19
 20
 21
 22
 23
 24
 25

&	5:18cv1325 1:9	ashanti 1:25 6:6	bleeding 25:14
& 1:20 2:4,14	8	32:6 33:14	blood 16:23 21:17
1	8040 2:8	asked 11:1 28:25	bottom 28:6
1 4:3 23:3,5	849-6791 2:18	asking 10:23	break 7:7
14 33:17	a	13:10 24:25	bretton 2:7
15th 8:7,18 9:18	absolutely 29:16	assume 7:24 10:3	brimfield 8:6,10
10:4,8,12,18 12:12	accuracy 29:25	10:6	8:14,18 9:11 10:7
14:15,18,19	acknowledged	assuming 17:1	14:17,25 23:23
2	17:8	attempt 22:2	bring 9:20
2 3:3 4:4 27:2,4,17	action 33:4	attention 19:12	broken 26:7
2015 9:15	actual 21:15	attorney 5:17 33:2	brush 16:15
2016 9:15	address 5:17,22	avenue 2:8	build 9:1
2018 8:7,18 9:19	adjournment	aware 5:15 9:18	building 15:19
10:4,8,12,18 12:2	32:22	9:19 22:20	19:11
12:8,12 14:15,18	adrenaline 16:23	awkward 5:14	bull 18:25
14:19	affixed 33:6	b	business 8:25
2019 1:18 33:8	aforesaid 32:12	back 17:1,13,13	buy 15:10 18:4
2022 33:17	afternoon 5:8	17:18,22 18:9	c
20s 18:17	age 5:1	background 8:17	call 7:7 8:13 19:4
2216 33:13	aggressive 14:6	barking 14:7	20:2 25:11
222 1:21 2:16	agreed 31:6	22:11	called 5:2 25:9,16
23 4:3	aisle 19:7	bars 15:13 17:11	25:16,18,19,20
25 1:18	akron 1:22 2:17	17:22	campbell 2:4
27 4:4	al 1:5,11	bathroom 7:8	canton 2:9
2:18 1:19	albeit 22:22	bear 23:20	cap 24:13,15
2:25 30:14	allowed 9:19	behalf 2:3,12	caption 32:21
3	andress 1:20 2:14	behavior 22:6,12	card 9:6
30s 18:17	answer 7:20,23	believe 18:20 22:7	care 7:8,10
32 3:10	13:9	bent 16:8	cart 15:19 17:23
330 2:18	anybody 21:13	best 6:24	case 1:9
4	26:15	better 13:4	cast 15:12 17:11
4 3:5	anyway 25:11	bit 8:16 11:9 17:17	17:22
400 1:21 2:8,16	appear 20:5	21:8,16,25 22:3,18	cause 32:12
44308 2:17	appearances 2:1	25:13	ceoff 2:10
44720 2:9	3:3	bite 13:17 22:7	certainly 11:6
5	appears 26:22	bites 12:23	certificate 3:10
5 3:8	approach 13:16	bitten 12:13,16,17	32:1
5'10 18:18	approached 22:5	22:22	certified 5:4
	approaching	black 21:14 24:6	certify 32:8,19
	13:20	blah 16:9,9,10	33:1

chalk 22:17 chance 6:23 change 29:23 characteristics 14:5 checked 18:3 25:13 civil 5:3 31:3 clear 21:25 cleveland 2:8 27:20 33:7 clinic 27:20 clip 23:11,23 close 19:18 20:8 20:10 collect 29:6 colored 24:15 come 13:17 17:13 21:11 comfortable 29:12 30:6 comments 28:6 commission 33:17 commissioned 32:8 common 10:10,13 commons 2:7 companies 1:11 2:13 completed 32:22 completely 16:22 concerned 11:22 concluded 30:14 conclusion 13:7 consider 12:24 conversation 6:19 copies 27:9 30:12 correct 19:8 28:14 32:17 counsel 29:22 31:1 31:6,12 33:2	county 32:4 couple 15:21 court 1:1 3:13 30:2 craig 2:6 7:9,12 11:2 23:9 26:17 27:8 29:2,11 crap 16:22 credit 9:6 cs3790601 1:23 custody 3:12 customers 9:20 cute 16:9 cuyahoga 32:4 d damages 29:14,21 darker 18:18,24 date 14:20,23 15:3 23:24 31:13 day 18:11,11,12 33:7 decided 17:23 default 20:1 defendant 2:12 defendants 1:13 delivery 31:11,13 deposed 5:5,24 deposition 1:15 23:5 27:4 29:20 30:1,14 31:8 32:20 describe 18:14,21 22:13 description 4:2 different 18:11 direct 23:18 disagree 28:9 discuss 8:5 discussed 28:3 29:12	dispute 12:7 district 1:1,2 division 1:3 dog 9:25 10:24 12:13,22,24 13:5 13:14,16,18,19,24 14:6,15 15:24,25 16:2,9,10,13 17:15 17:19 18:10,21,23 18:23,25 19:2,7,19 19:24 20:1,5,5,20 21:8,16,25 22:3,5 22:10,12,18,24 24:19,22 25:5 26:11,14 28:17 dog's 11:23 dogs 10:7,11,15,17 13:3 14:1,24 22:16 doing 6:9 9:12 18:13 doors 9:22,22 doubt 30:2 draw 16:1 drive 23:10 drum 11:10 duly 5:4 32:7,10 dumb 24:25 e earlier 22:9,16 early 18:17 eastern 1:3 easy 15:3 editorialize 11:9 edwards 1:25 32:6 33:14 either 19:25 30:4 33:2 employee 16:7 17:6 19:7 20:4,8 21:4,7	encountered 14:14 eoff 2:6 7:13 13:6 13:15 23:12,16 26:19,22 27:11,15 27:23 28:1 29:4,8 29:15,19 30:9,12 31:14 esq 2:6,15 established 25:4 et 1:5,11 event 33:3 examination 3:7 5:2,6 example 14:6 excited 16:10 exhibit 3:12 4:3,4 23:3,5 27:2,4,17 exhibiting 22:12 exhibits 3:5,13 4:1 expires 33:17 extent 13:7,10 f face 24:11,12 fair 7:24 9:14 10:3 10:6 14:1,4 26:6 28:23 familiar 14:2 far 20:18 29:17 federal 5:3 feel 21:22 feelings 11:10 female 19:24 find 10:20,22 fine 5:23 7:9 23:17 27:11,15 finish 6:25 first 5:4,23 8:17 9:9 32:10 fit 16:4 five 8:22
--	---	--	---

flash 23:10 follows 5:5 foregoing 32:16 32:21 forgot 17:14 four 9:13,13 friendly 10:2 13:17,18 20:5 further 29:18 32:19 33:1	handful 15:9 handing 27:16 handler 14:12 handles 15:22 happened 10:24 11:2 15:3 16:21 16:24 17:9 25:7 happy 23:14 hard 6:15 7:3 9:8 harm 12:25 head 16:14,16 19:21 20:12,14,15 heck 16:24 height 18:18,18 helpful 25:22 hereinafter 5:4 hereunto 33:5 hi 5:9 16:9,14 hidden 22:24 hmm 6:8,12 20:23 23:21 25:6 home 12:16 25:9 25:13 honest 11:18 honestly 26:9 hpi 28:6 huh 6:12 husband 11:3,3 25:9,16,19,21	instantaneous 20:22 instruction 31:2 31:12 interact 22:2 26:14 interested 33:3 iron 15:12 17:11 17:22 ish 18:18	large 18:23 law.com 2:10 lawful 5:1 lawyers 24:24 leash 17:1 leave 15:19 17:9 19:11 28:15 leaving 19:15 29:13 led 22:6 left 15:8 25:7 28:13 29:20 leg 16:17 legal 13:7,13 light 24:15 lines 14:21 literally 16:15 little 8:16 11:9 llc 2:4 loaded 17:23,25 look 23:14 26:17 looked 11:18 18:15,25 19:17 26:25 looks 12:4 24:9 lot 5:13 6:21 7:16 15:7,8 loud 28:10 love 16:9 lowe's 1:11 2:12 5:17 8:7,10,14,19 9:10,11,18,19 10:7 14:17,25 23:23 25:17,18,19,20 27:17 lpa 1:20 2:14 luckier 12:15 lumber 15:10,14 15:15,16,17,20 lunge 14:12
g		j	
getting 17:20 give 6:3,23 22:6 29:2 31:1,12 given 29:25 32:13 32:18 gnashing 22:10 go 7:8 9:2 15:16 15:17,25 16:7,11 17:12,14,17,18 26:1 27:13 28:16 goes 29:18 going 6:21,22 8:13 9:10 12:21 15:2 16:11,19,23 23:3 23:18 24:18 25:3 25:11 26:11 27:24 good 5:8 grab 17:10,12,15 gray 18:19,24 24:10 ground 6:3 guard 16:22 guess 9:1,17 11:22 13:18 20:10 guys 16:8	idea 13:22 identification 23:7 27:6 identify 14:5 imagine 7:2 impression 13:11 incapable 5:18 incident 8:6 26:15 index 3:1,5 4:1 instagram 10:23 12:2	jack 11:24 12:7 jacket 24:11,12 jeans 21:15,15,16 21:21 24:6 job 1:23	
	i	k	
		keep 16:19 kid 26:12 kind 17:17 18:25 king 24:24 knelt 19:20 20:9 knew 21:9 22:25 know 6:14,21,22 9:8 11:16,21 13:19,24,25 16:12 16:13,25 17:3,7,13 18:1 19:24,25 20:16 21:15,21 25:10,10,24,25,25 26:4 28:21,22 known 21:18 krystal 1:5,16 3:7 5:1,6 8:1 23:20 27:1,16 29:19 30:13 32:9	
h		l	
hair 18:18 hand 20:12,19 27:1 33:6		lab 12:18 lady 16:7 19:15 25:24	

lunged 16:17 17:16,20 28:17	narrative 27:14 nature 30:1	12:1,5,11 13:2,23 14:14,17 15:2,9	people 5:20 7:3 16:5,11
m	necessary 30:3	16:18,21 18:4,7,14	perfectly 30:6
m 2:6	need 7:6 15:16 16:7 17:11 18:2	19:6,14,18,23 20:7 20:11,18 21:10,24	person 6:23 16:4 26:3
main 1:21 2:16	needed 15:10,11 15:12,17 28:21	22:24 23:2,22 24:12,17 25:2,4	personal 13:10
male 18:17 19:24 20:1	needs 5:14	26:24 27:1,12	pertains 13:3
march 8:7,18 9:18 10:4,7,12,18 12:2 12:7,12 14:15,18 14:19	never 18:6 27:18	28:1,4,18,20 29:4 29:8,17,19 30:9	pet 10:1
mark 10:19 23:3 27:2,17	nicholas 2:15 8:11	old 11:10 19:1	pets 9:20
marked 4:2 23:6 27:5	nick 5:16	once 7:4 12:17 15:24	petted 14:24
markings 21:18	normal 6:18	open 29:13,20	petting 19:7,19,21 20:4
marks 25:15	north 2:9 24:11,12	opinion 13:4,13,13 19:1	phone 7:7
materials 9:1 15:10,13 17:25	northern 1:2	opposite 15:18	physically 12:25 18:21
matter 11:23	nose 16:16 20:13	orders 30:10	pick 26:1
mattered 11:21	notary 30:10 32:6 33:14	original 31:14	picture 9:25 16:1 25:15
mean 10:1 12:19 16:1 18:11 28:12	noticed 17:8	owner 12:22 16:3 16:25,25 18:15 20:25 21:2 22:11 24:25	pit 18:25
means 13:3	november 1:18		place 32:20
medical 4:4 27:5 27:19	nresetar 2:19		plaintiff 1:7
medium 18:18,23	number 4:2 11:11 11:13		plaintiffs 2:3
meeting 27:22	nw 2:8		playfully 12:19
missing 7:11,14 29:7	o	p	playing 12:25
mix 18:25	objection 13:6	p 2:15	please 16:20
mosholder 1:5,16 3:7 5:1,6 32:10	obviously 13:8	p.m. 1:19 30:14	point 17:24
multiple 10:15	occasions 10:15	page 28:6	possibility 22:21
n	occurred 8:6	paint 15:12,18,23 16:3,5 17:10,15,19 18:4,6 28:17	post 12:1
name 5:16,23 11:24 25:25	october 33:17	pair 21:14,19	potentially 29:20
named 32:9	offend 5:21	park 15:15	prefer 5:22
names 26:4,5	offended 5:18	parked 15:15	presence 32:15
	office 33:6	parking 15:7,8	pressure 16:23
	oh 7:14 8:4 12:19 19:12,13 26:19	part 6:18 9:4,7 28:5	pretty 15:11 25:20
	ohio 1:2,22 2:9,17 32:2,7 33:7,15	parties 31:7	preview 24:19
	okay 5:11,19,24 6:5,11 7:1,5,14,18 7:22 8:1,3,4,5,13 8:15,21 9:4,8,14 9:17 10:6,14,17	party 33:3	prior 8:17 10:7,11 10:15 12:12 13:20 14:15,18,23 18:13
		pay 18:1,2 19:12	pro 9:4,7
		pelini 2:4,10	probably 7:2 11:2 12:16,17 16:4 27:18

procedure 5:3 process 5:13 professionalism 30:2 program 9:5,7 provided 5:2 public 32:6 33:14 pull 11:13 pulled 15:7,9 17:1 puppy 12:23 19:4 purposes 23:6 27:6 pursuant 29:21 31:3 put 20:11 23:13 27:9	recall 9:21,23 recognizing 6:20 record 4:4 27:5,9 29:9,10 records 27:19 reduced 32:14 referenced 24:7 32:13,18 regarding 31:2,13 regards 29:13 regularly 9:10 relative 33:2 remember 17:5 19:21 21:3,6 25:23 26:4 remote 22:22 reported 26:7 reporter 3:13 30:2 reporter's 3:10 32:1 represent 23:22 23:24 27:17 requested 31:1,12 resetar 2:15 3:8 5:7,16 7:11 13:12 23:9,13 26:17,21 26:24 27:8,12,24 29:2,5,9,11,17 retained 3:13 return 26:11 review 29:23,24 30:5 31:2 right 6:9 7:14 8:8 10:20,22 11:12 13:1 16:3,6 23:12 29:22 30:3,5 roetzel 1:20 2:14 rpr 1:25 rug 11:14 rules 5:3 6:4 31:3	s saw 10:3,6 12:1 17:1 18:10 19:7 19:10,15 20:4 25:14 saying 6:7 7:3,21 14:19 says 9:24 10:1 28:5 scared 16:22 screen 23:19 seal 33:6 second 6:18 29:3 see 10:11,14 16:10 19:16 21:17,18,25 26:14 28:5 29:6 seek 13:7 seen 15:24 27:18 27:21 sense 7:16,17 16:2 set 12:4 33:6 sheet 27:13 shop 8:17,18 shopping 18:13 short 30:1 shorts 21:19 show 23:2,14 showing 14:9 side 15:16,16,18 15:25 17:12 sign 30:5 signature 31:5 33:13 signing 31:7 silent 8:4 simple 9:17 23:19 single 23:11 sir 29:15 sitting 6:15 six 8:22	sized 18:23 skin 21:17 26:8 sliding 9:22 solely 29:13 somebody 14:12 sorry 5:9 8:2 17:14 sound 8:7 south 1:21 2:16 specified 32:21 speech 6:2 spotting 18:24 spray 15:12,18,23 16:3,5 17:10,15,19 18:4,6 28:17 ss 32:3 stacie 30:13 standing 16:1,3 start 6:25 15:14 started 9:10 state 32:2,7 33:15 states 1:1 stenotypy 32:14 sticker 9:21,23 10:4 stipulation 29:22 stop 14:18 store 9:20 10:11 10:15 15:24 18:10 21:9,13 23:25 25:8 26:12,15 street 1:21 2:16 stuck 20:19 stuff 19:22 suite 1:21 2:8,16 super 16:10 supplies 9:3 supposed 5:10 sure 5:9,21 7:19 11:4 13:15 15:11 16:13,25 17:2
q			
qualified 13:9 32:8 question 7:20,23 8:23 9:9 10:19 13:9 14:20,23 15:4 21:10 23:24 24:1,17,18 25:3 questioning 29:21 questions 23:19 24:25 29:18			
r			
ralaw.com 2:19 reach 17:19 read 28:8 reading 31:7 real 15:2 realize 17:10 really 9:17 17:8 18:19 19:18 reason 7:7 21:12 21:22 26:6,10 28:25			

20:17 21:20 25:21 26:3,11 28:19 sweatshirt 18:19 18:20 swing 12:4 sworn 5:4 32:10	times 6:21 8:22 tiresome 6:3 today 8:5 29:18 30:11 told 22:15 25:10 28:18 tonight 12:16 top 16:15 touch 20:13 touching 20:15 transcribed 32:16 transcript 3:1 29:23 30:6 31:3,8 31:11,13 transcription 32:17 transcripts 30:11 tried 16:15 25:21 true 32:16 truth 32:11,11,12 try 17:15,18 28:16 trying 11:6,10,13 12:25 14:11 21:11 22:11 turned 16:14 two 7:3 11:7,13 16:5 17:5 18:16 typical 6:19	upper 18:17 use 27:13	williams 2:4 witness 13:8 28:4 30:8 32:9,14,15,18 33:5 witness's 31:2 woman 19:10 wood 9:1 write 7:3
t		v	
take 7:7,7 17:13 30:12 taken 1:20 12:6 32:20 talk 7:9 25:21 talked 16:8 22:9 23:9 25:23 talking 6:20,24,25 6:25 tassel 24:13 teeth 12:22 14:9 22:10 25:14 tell 7:8,16 13:2 15:3 17:4 21:7,12 26:2 28:8 29:25 telling 11:17 term 13:2 testify 32:11 testimony 29:24 32:13,17 thing 6:10 7:6 28:13 things 7:16 9:1 11:7 17:18 22:9 think 7:13 9:9,12 11:5 15:21 17:7 19:2 20:16 thought 19:13 22:6 thoughts 29:6 time 6:2 12:6 15:6 15:7 20:19,19 21:16 26:1 32:20	uh 6:12 um 6:8,12 20:23 23:21 25:6 uncommon 10:11 understand 6:14 7:20 understood 7:24 united 1:1 unnecessarily 5:14 unpredictable 14:2 22:16,17	verbatim 10:1 vicious 13:3,5,14 13:20 14:6,15 22:10,13 video 4:3 18:8 23:3,6,11,23 25:5 view 22:25 voices 25:25 vs 1:9	w
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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,

2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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DEPOSITION
EXHIBIT

1
Mesholder 11-25-19
AE

This exhibit contains digital media which can be accessed with the below link and password:

3790601

Password: o6gHf4Xw

<https://veritext.egnyte.com/fl/ig4OiLTK29>



AKRON GENERAL MEDICAL Mosholder, Krystal
CENTER MRN: 1134040, DOB: 8/28/1986, Sex: F
1 AKRON GENERAL AVE Adm: 3/15/2018, D/C: 3/15/2018
AKRON OH 44307-2432

ED Medication Administration (continued)

Date/Time	Order	Dose	Route	Action	Action by	Comments
1339	875 mg tab(s) (AUGMENTIN)	mg			Doolittle, RN	

Current Discharge Medication List

Medication list as of: 3/15/2018 1:54 PM

ED Immunization Screening from 3/15/18 1116 to 3/15/18 14:16:00

Date and Time	Last Tetanus?	Up to Date on Immunizations?	Pneumovax Vaccine?	Entered By
03/15/18 1123	More Than Five Years	--	--	CW

ED Provider Notes - ED Provider Notes

ED Provider Notes by Erica R (Pa) Domaleczny, PA at 3/15/2018 11:30 AM

Author: Erica R (Pa) Domaleczny, PA Service: Emergency Medicine Author Type: Physician Assistant
Date of Service: 3/15/2018 Filed: 3/15/2018 2:21 PM Status: Signed
Editor: Erica R (Pa) Domaleczny, PA (Physician Assistant)

ED Provider Note

Patient Name: Krystal Mosholder

MRN: 1134040

SERVICE DATE: 3/15/18

History: *[Faint, illegible text]*

Patient presents with:

Dog Bite: pt sts was at lowes today, got bit by unknown dog. R hip, pt sts was bleeding, swollen.

HPI Comments: 31-year-old female with past medical history of meningitis and breast augmentation presents to the emergency Department with complaints of dog bite to the right hip that occurred around 10 AM this morning while at Lowe's. She was petting a puppy pitbull mix. As she turned to walk away she states the dog growled at her and bit at her hip. She states she does not believe that the owner even noticed. She did not stop the owner to speak with the owner after this incident. She states she noticed that there was some blood to the wound when she got home. She initially did not think he broke skin. She denies fevers/chills and significant bleeding. She expresses that she would like to receive the rabies vaccine series due to the fact that she has no way of monitoring this dog and is unaware of its vaccination status.

History provided by: **Patient and medical records**

Language interpreter used: **No**

PAST MEDICAL HISTORY

Diagnosis

- H/O breast augmentation
bilateral submuscular

Printed on 11/20/19 10:45 AM

Date

